IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.S.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.K.BASHEER

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Co.Appeal.No. 12 of 2003()

AGAINST THE JUDGEMENT IN CP.8/1998 Dated 24/09/2002
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APPELLANT/PETITIONER

LAKMA AGROVET INPUTE PRIVATE LIMITED,
REPRESENTED BY ITS DIRECTOR R.KRISHNA,
IST FLOOR, SHANTALA PLAZA MALLESWARAM,
BANGALORE.

BY ADV. SRI.P.K.SURESH KUMAR
SRI.K.P.SUDHEER

RESPONDENTS: RESPONDENT

PRIMA AGRO PRODUCTS LIMITED,
REPRESENTED BY ITS MANAGING DIRECTOR,
REGD.OFFICE AT PRIMA HOUSE,
BANERJI ROAD, KOCHI - 18.

BY ADV. SRI.PREMJITH NAGENDRAN

THIS COMPANY APPEAL HAVING BEEN FINALLY HEARD ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.S.RADHAKRISHNAN & A.K.BASHEER, JJ

CO.APPEAL. 12/2003

Dated this the 10th day of September, 2007

JUDGMENT

Radhakrishnan, J

Company petition was preferred by the appellant herein holding that the respondent/company is unable to pay the amount due to the appellant/petitioner. Appellant submits, an amount of Rs.908133.90 and the interest was due to the appellant towards the price of the raw materials supplied from 1.12.1996 to 8.3.1997. On demand, the respondent/company did not pay the amount. Hence, the petitioner/Company filed this present Company petition under Section 439 of the Companies Act.

2. Respondent/company failed to pay the price in respect of the the raw materials supplied by the petitioner/company on the ground that the materials supplied was of inferior quality. Further it is also alleged that there was unathorised increase of the price shown in the invoice in collusion with some of the employees of the respondent/Company. Learned Single Judge on perusal of the documents, found that the respondent/company had already informed the petitioner/company regarding the

dispute on the quality of the raw materials as well as the prices. Further the facts revealed that the respondent/company was running on a profit and the company was capable of paying the amount for the materials. In such circumstances, learned Single Judge has rightly dismissed the Company Petition. This appeal lacks merit and the same is dismissed.

K.S.RADHAKRISHNAN
Judge

A.K.BASHEER
Judge

mrcs